

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

BOBBY JOE BROWN, JR.,

Defendant and Appellant.

C062860

(Super. Ct. No.
CM030536)

About 2:50 a.m. on April 28, 2009, defendant Bobby Joe Brown, Jr., went to the victim's home, broke three windows, and entered without permission. Inside, he grabbed and pulled the victim's hair. Defendant fled when the victim used pepper spray on him. About an hour later, defendant returned, broke two more windows, and entered again without permission. The victim, her children, and a guest hid while he threw the victim's personal possessions around and stole \$350 from a dresser drawer.

Defendant entered a negotiated plea of no contest to first degree burglary with a person present (Pen. Code, § 459), and other charges (vandalism, battery, and a second count of first

degree burglary) and enhancement allegations (defendant had a prior serious felony conviction and had served two prior prison terms) were dismissed. He was sentenced to state prison for the upper term of six years.

Defendant appeals but did not obtain a certificate of probable cause (Pen. Code, § 1237.5).

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and asks us to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

The judgment is affirmed.

SCOTLAND, P. J.

We concur:

SIMS, J.

ROBIE, J.